

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Moriba Geoffroy	Team: Squad #03	CCRB Case #: 202300635	<input checked="" type="checkbox"/> Force <input checked="" type="checkbox"/> Discourt. <input type="checkbox"/> U.S. <input checked="" type="checkbox"/> Abuse <input type="checkbox"/> O.L. <input type="checkbox"/> Injury
Incident Date(s) Saturday, 01/14/2023 12:53 AM	Location of Incident: Crotona Parkway and East 180th Street; 48th Precinct stationhouse	18 Mo. SOL 7/14/2024	Precinct: 48
Date/Time CV Reported Mon, 01/23/2023 10:27 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Mon, 01/23/2023 10:27 PM

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Richard Castellano	25087	957429	044 PCT
2. Officers			
3. PO Jorge Flores	07680	954816	044 PCT
4. LT Michael Bowman	00000	939932	040 PCT

Officer(s)	Allegation	Investigator Recommendation
A . Officers	Abuse: Officers stopped the vehicle in which § 87(2)(b) was an occupant.	
B . PO Jorge Flores	Abuse: Police Officer Jorge Flores threatened to arrest § 87(2)(b)	
C . PO Jorge Flores	Force: Police Officer Jorge Flores used physical force against § 87(2)(b)	
D . LT Michael Bowman	Force: Lieutenant Michael Bowman used physical force against § 87(2)(b)	
E . PO Jorge Flores	Force: Police Officer Jorge Flores used physical force against § 87(2)(b)	
F . PO Richard Castellano	Force: Police Officer Richard Castellano used physical force against § 87(2)(b)	
G . PO Richard Castellano	Force: Police Officer Richard Castellano used a chokehold against § 87(2)(b)	
H . PO Richard Castellano	Force: Police Officer Richard Castellano used physical force against § 87(2)(b)	
I . Officers	Force: Officers restricted § 87(2)(b) breathing.	
J . Officers	Force: Officers used physical force against § 87(2)(b)	
K . LT Michael Bowman	Force: Lieutenant Michael Bowman used physical force against § 87(2)(b)	

Officer(s)	Allegation	Investigator Recommendation
L . PO Richard Castellano	Abuse: Police Officer Richard Castellano threatened § 87(2)(b) with the use of force.	
M . PO Richard Castellano	Force: Police Officer Richard Castellano used physical force against § 87(2)(b)	
N . PO Jorge Flores	Abuse: Police Officer Jorge Flores threatened to arrest § 87(2)(b)	
O . PO Jorge Flores	Discourtesy: Police Officer Jorge Flores spoke discourteously to § 87(2)(b)	
P . PO Jorge Flores	Abuse: Police Officer Jorge Flores seized § 87(2)(b) property.	

### Case Summary

On January 23, 2023, § 87(2)(b) filed this complaint on behalf of herself and § 87(2)(b) with the Civilian Complaint Review Board via the online website.

On January 14, 2023, at approximately 12:53 a.m., § 87(2)(b) was driving along Crotona Parkway and East 180th Street in the Bronx, with occupants § 87(2)(b) and § 87(2)(b). Officers of the 44<sup>th</sup> Precinct stopped § 87(2)(b) vehicle (**Allegation A: Abuse of Authority;** § 87(2)(g) and PO Jorge Flores of the 44<sup>th</sup> Precinct threatened to arrest him (**Allegation B: Abuse of Authority;** § 87(2)(g)). PO Flores physically removed § 87(2)(b) from the vehicle (**Allegation C: Abuse of Authority;** § 87(2)(g)). Once out of the vehicle, Lieutenant Michael Bowman, PO Flores, and PO Richard Castellano of the 44<sup>th</sup> Precinct punched him while on the ground (**Allegations D-E: Force;** § 87(2)(g)). **Allegation F: Force;** § 87(2)(g) PO Castellano applied a chokehold to § 87(2)(b) (**Allegation G: Force;** § 87(2)(g)). PO Castellano continued to punch § 87(2)(b) while on the ground (**Allegation H: Force;** § 87(2)(g)). § 87(2)(b) stated that the officers being on top of him restricted his breathing (**Allegation I: Force;** § 87(2)(g)). Officers kicked § 87(2)(b) (**Allegation J: Force;** § 87(2)(g)).

While § 87(2)(b) was being placed in a transport vehicle, LT Bowman then pushed § 87(2)(b) (**Allegation K: Force;** § 87(2)(g)) and she fell to the ground. PO Castellano pulled out his Taser, pointed it at § 87(2)(b) (**Allegation L: Abuse of Authority;** § 87(2)(g)) and placed his knee on her back (**Allegation M: Force;** § 87(2)(g)). PO Flores entered § 87(2)(b) vehicle, threatened to arrest § 87(2)(b) (**Allegation N: Abuse of Authority;** § 87(2)(g)). § 87(2)(b) spoke discourteously towards him (**Allegation O: Discourtesy;** § 87(2)(g)) and seized his vehicle (**Allegation P: Abuse of Authority;** § 87(2)(g)). § 87(2)(b) and § 87(2)(b) were arrested during the incident [BR 34-35].

Body worn camera (BWC) video was received from NYPD Legal [BR 1]. Cellphone video footage was provided by § 87(2)(b) a civilian witness to the encounter [BR 2].

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Officers stopped the vehicle in which § 87(2)(b) was an occupant.**

**Allegation (B) Abuse of Authority: Police Officer Jorge Flores threatened to arrest § 87(2)(b).**

**Allegation (C) Force: Police Officer Jorge Flores used physical force against § 87(2)(b)**

§ 87(2)(b) testified that he was driving along East 180<sup>th</sup> Street with his family. He was the driver and in the vehicle with him was his father, § 87(2)(b) his mother, § 87(2)(b) his sister, § 87(2)(b) and his sister's friend, whom he only referred to as § 87(2)(b). While driving northbound along East 180th Street, § 87(2)(b) saw a police vehicle driving southbound. He saw the police vehicle make an abrupt U-turn in his rear view and side mirror. The police vehicle began driving behind them. § 87(2)(b) stopped the vehicle and pulled over at Crotona Parkway and East 180<sup>th</sup> Street. The police vehicle stopped behind him and they activated their turret light and siren. Approximately four to five officers exited and surrounded his vehicle. PO Flores came to the driver's side window and asked for his license and insurance. § 87(2)(b) asked PO Flores why he was being pulled over and he could not give him an answer. PO Flores walked to the front of the vehicle and looked at the headlights. He returned to the driver's side window and said he was stopping § 87(2)(b) because his headlights were not operational. § 87(2)(b) told PO Flores he did not have any license or registration for the vehicle. § 87(2)(b)

§ 87(2)(b) said he was not driving, but travelling and did not need a license to travel. PO Flores looked at LT Bowman, who said, “Get him out of the vehicle.” § 87(2)(b) said he was going to put his hand on the steering wheel of the vehicle and was not going to do anything. PO Flores placed his hand over the window, into the car and opened the driver’s side door. § 87(2)(b) testified that PO Flores reached around him and took off his seatbelt. PO Flores, PO Castellano, and LT Bowman began pulling § 87(2)(b) out of the vehicle. PO Flores grabbed and pulled his legs, PO Castellano grabbed and pulled his waist, and LT Bowman grabbed and pulled his arms. He was scared and began screaming for help. The officers used one continuous pull to take him out of the vehicle. § 87(2)(b) said he was resisting by holding onto the steering wheel. Outside of the vehicle, PO Castellano grabbed onto his legs, bending them backwards, and swept him off the floor. The officers then held onto his arms and placed him on the floor. [BR 3].

Contact attempts were exhausted to § 87(2)(b) and § 87(2)(b). No response was received and therefore no statement could be obtained from them (See IAs for contact attempts).

At 1:00 minutes, PO Flores’ BWC footage shows him approaching a stopped vehicle and asking for the driver’s license, insurance, and registration. § 87(2)(b) asks why he is being stopped and refuses to give PO Flores his documentation. At 1:36, PO Flores walks to the front of the vehicle. The left headlight is not functional in the video. PO Flores walks back to the driver and says the stop is for a defective headlight. He continues to ask for § 87(2)(b) documents, and he refuses to provide them. At 2:00, PO Flores says to open the door and § 87(2)(b) refuses. He continues to ask for his documents and § 87(2)(b) says he does not have them. PO Flores asks if he is going to open the door and § 87(2)(b) says no. At 2:50, PO Flores says, “Either you’re going to give me your license or I’m going to take you back to the Precinct.” At 3:40, LT Bowman says to take § 87(2)(b) out of the vehicle. PO Flores opens the door and § 87(2)(b) stays in the vehicle holding onto the steering wheel. PO Flores grabs § 87(2)(b) by his arms and legs and pulls him out of the vehicle onto the ground [BR 4].

PO Flores testified that he was in a police vehicle travelling eastbound on East 180<sup>th</sup> Street. He saw a vehicle driving westbound on East 180<sup>th</sup> Street and observed a Vehicle Traffic Law (VTL) infraction, which was a defective headlight. PO Flores made a U-turn to follow the vehicle and activated his turret lights and siren. The vehicle pulled over and he approached the driver’s side window. He asked the driver, § 87(2)(b) for his license, registration, and insurance card. § 87(2)(b) asked why he was being stopped. PO Flores walked up to the front of the vehicle with his BWC activated to show that the headlight was defective. He walked back to the driver’s side window and informed § 87(2)(b) that he had a defective headlight. PO Flores asked again for his driver’s information and § 87(2)(b) refused. § 87(2)(b) said he did not have his ID. PO Flores asked § 87(2)(b) twice to provide his name and date of birth, and if he lied, he could arrest him for false impersonation. § 87(2)(b) continued not to provide his credentials. PO Flores called over his supervisor, LT Bowman, and told him that the driver was not complying with his orders and refused to provide his credentials. LT Bowman permitted him to remove § 87(2)(b) from the vehicle. PO Flores asked § 87(2)(b) to step out of the vehicle numerous times and he refused [BR 6].

The Vehicle Report associated with this incident shows that the vehicle was stopped for a violation of VTL section 375 – “faulty/unapproved headlight” [BR 7].

New York State Vehicle and Traffic Law section 375, subsection 2(a)1 requires vehicles to have at least two lighted head lamps on the front, one on each side, having light sources of equal power [BR 8].



NYPD Patrol Guide Procedure 209-09 states that when issuing a summons returnable to the Traffic Violations Bureau, officers may remove the violator to the command for investigation if doubt concerning identity exists [BR 9].

NYPD Patrol Guide Procedures 221-01 states that a member of service may use force when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In determining whether the use of force reasonable, MOS should consider the nature/severity of the crime/circumstances, whether the subject is actively resisting custody, actions taken by the subject, duration of the action, number of subjects in comparison to number of MOS, size, age and condition of the subject in comparison to the MOS. Further, officers shall not use a chokehold [BR 17].

§ 87(2)(g)

§ 87(2)(g) § 87(2)(b)

repeated refusal to comply with commands to exit the vehicle, § 87(2)(g)

**Allegation (D) Force: Lieutenant Michael Bowman used physical force against § 87(2)(b)**

**Allegation (E) Force: Police Officer Jorge Flores used physical force against § 87(2)(b)**

**Allegation (F) Force: Police Officer Richard Castellano used physical force against § 87(2)(b)**

**Allegation (G) Force: Police Officer Richard Castellano used a chokehold against § 87(2)(b)**

**Allegation (H) Police Officer Richard Castellano used physical force against § 87(2)(b)**

**Allegation (I) Force: Officers restricted § 87(2)(b) breathing.**

**Allegation (J) Force: Officers used physical force against § 87(2)(b)**

§ 87(2)(b) stated that he landed on his stomach and his face hit the ground. The impact of the fall caused him to go into shock and he tried to get up. He lifted his body off the ground, turned on his side, and his arms were placed behind his back. § 87(2)(b) felt four to five officers on top of him. The officers were trying to place him back onto his stomach. They began punching and kicking him while on the floor. He was punched and kicked approximately 20 times in his mouth, eyes, temple, jaw, and groin. He could not see which officers were assaulting him. He was placed into handcuffs and picked up by the officers by his arms. He was placed into the police vehicle and the door was locked. § 87(2)(b) was informed he was arrested for choking an officer. § 87(2)(b) did not recall choking any officer. [BR 3].

§ 87(2)(b) a civilian witness with no known relationship to any of the parties involved, testified that he was walking across the street to go to a grocery store located at Crotona Parkway and East 180<sup>th</sup> Street. He noticed a commotion involving over 50 police officers. As he got closer to the incident, he saw § 87(2)(b) being punched as he was being pulled out of the vehicle. § 87(2)(b) pulled out his cellphone and began recording. He saw two officers, whom he could not identify, pulling § 87(2)(b) out of the driver's side of the vehicle. Both officers grabbed § 87(2)(b)

§ 87(2)(b) by his shirt, head, pants, and body to get him out of the vehicle. The officers threw § 87(2)(b) to the floor. § 87(2)(b) saw officers punching and kicking § 87(2)(b) while he was on the ground. The officers were also trying to place handcuffs on § 87(2)(b). He saw an officer punching § 87(2)(b) multiple times in the face and head. Officers began kicking § 87(2)(b) multiple times while he was lying down on the floor in a curled position [BR 10].

§ 87(2)(b) was arrested and the top charge was for Criminal Obstruction of Breathing. The narrative of the arrest report notes that § 87(2)(b) placed both of his hands against PO Castellano's throat and applied pressure, which caused discomfort and a change in breathing [BR 34].

Cellphone recording from § 87(2)(b) shows at 0:03, a group of officers are around § 87(2)(b) while another officer, who the investigation determined was PO Castellano, punches him multiple times in the face. At 0:53, § 87(2)(b) is handcuffed by the officers [BR 2].

At 2:54 minutes, LT Bowman's BWC footage shows PO Flores reaching around § 87(2)(b) and taking off his seat belt. § 87(2)(b) is taken to the ground and LT Bowman holds onto one of his legs. At 4:53, PO Flores (kneeling in front of LT Bowman with medium-length hair) punches § 87(2)(b) once somewhere on his lower extremity. At 5:05, LT Bowman holds onto one of § 87(2)(b) hands and tells him to turn over, while the other officers are over him. LT Bowman tells § 87(2)(b) to turn over. § 87(2)(b) is turned onto his stomach and handcuffed. At 6:22, § 87(2)(b) is stood up by the officers and taken to a police vehicle [BR 5].

At 1:04 minutes, PO Nowacki's BWC footage shows her approach the encounter after § 87(2)(b) has been removed from the vehicle. § 87(2)(b) is being punched by two officers. PO Flores (kneeling over § 87(2)(b) on the left of the frame) is punching § 87(2)(b) lower body, while PO Castellano (directly in front of PO Nowacki) is punching his face repeatedly [BR 11].

At 1:20 minutes, PO Mckeen's BWC footage shows officers grappling with § 87(2)(b) who is on the ground in a face-up position. PO Castellano's left elbow is against § 87(2)(b) face and his hands are holding onto § 87(2)(b) left hand. § 87(2)(b) extends his left hand toward PO Castellano's face and touches it. PO Castellano punches § 87(2)(b) twice in his face. The camera briefly becomes obscured. At 1:28, PO Castellano leans backwards and appears to have fallen backwards away from § 87(2)(b) as numerous other officers continue to grapple with § 87(2)(b). PO Nowacki is holding onto one of § 87(2)(b) arms by the wrist. At 1:31, PO Castellano punches § 87(2)(b) two more times. At 2:59 minutes, as § 87(2)(b) is being walked to a police vehicle, PO Castellano says, "I don't take too kindly to people grabbing at my throat." [BR 12]

At 1:09 minutes, PO Ku's BWC footage shows PO Castellano punching § 87(2)(b) face six times. At 1:23, PO Castellano's left hand is seen around § 87(2)(b) neck (A screen capture of this moment is attached to BR36, a subclip video of the relevant section is attached to BR37). At 1:30, officers have control of both § 87(2)(b) arms and are pulling them up and outward away from § 87(2)(b) torso. PO Castellano has his fist clenched above § 87(2)(b) face for a couple seconds before he punches § 87(2)(b) two more times in the face at 1:36 [BR 13].

At 4:22 minutes, PO Warnken's BWC footage shows PO Flores, PO Castellano and LT Bowman pulling § 87(2)(b) out of the vehicle and onto the ground. At 4:37, LT Bowman (positioned closest to the right of the driver's side door) punches § 87(2)(b) once (somewhere on his lower extremity), while he is on the ground [BR 14].

PO Flores testified that he asked § 87(2)(b) to step out of the vehicle numerous times and he refused. § 87(2)(b) held firmly onto the steering wheel and put both his feet at the bottom of the dashboard, to prevent the officers from taking him out of the vehicle. PO Flores grabbed onto the top portion of § 87(2)(b) chest area. He transitioned to § 87(2)(b) legs soon after. LT Bowman began grabbing onto § 87(2)(b) chest area. Both officers began pulling § 87(2)(b) out of the vehicle. § 87(2)(b) was eventually removed from the vehicle and became combative. Other officers came over to assist, and a scuffle ensued, involving grappling, hand strikes, and a forcible takedown being used. § 87(2)(b) began flailing his arms, bladed his body, tucking his arms underneath his chest, and was being uncooperative. § 87(2)(b) was on his back, which prevented the officers from placing him into handcuffs. PO Flores admitted that he used closed fist hand strikes twice on § 87(2)(b). He applied these hand strikes along § 87(2)(b) upper body. He struck this area of § 87(2)(b) body because he was not supposed to strike the groin area. He used these hand strikes to overcome § 87(2)(b) resistance during the scuffle. § 87(2)(b) did not stop resisting after the hand strikes were applied. The officers eventually placed § 87(2)(b) on his stomach and placed him into handcuffs [BR 6].

LT Bowman testified that § 87(2)(b) interlocked his arms under the steering wheel to prevent himself from being removed from the vehicle. LT Bowman assisted in removing § 87(2)(b) from the vehicle by grabbing his upper left arm. He recalled PO Flores also assisting with the removal of § 87(2)(b) from the vehicle. PO Flores grabbed § 87(2)(b) arm trying to release his grip from the steering wheel. § 87(2)(b) resisted by actively keeping his body in the vehicle and pulling away from them. They were eventually able to break § 87(2)(b) grip on the steering wheel and take him out of the vehicle. Once § 87(2)(b) was taken out of the vehicle, he did not go to the ground immediately. Soon after, everyone fell to the ground. They began wrestling with § 87(2)(b) who had his arms underneath him and was refusing to place them behind his back. LT Bowman did not recall him or any officer using any hand strikes against § 87(2)(b). He did not recall any officer using a chokehold against § 87(2)(b). He did not recall § 87(2)(b) indicating that he was having trouble breathing. Eventually the officers were able to get § 87(2)(b) hands from underneath him, placed them behind his back, and place him into handcuffs. LT Bowman was shown PO Warnken's BWC footage from the incident. After watching the video, LT Bowman did not recall applying hand strikes to § 87(2)(b) on the day of the incident. LT Bowman was informed after the incident that § 87(2)(b) placed his arms around PO Castellano's neck, applying pressure. He did not notice this occurring during the struggle [BR 16].

PO Castellano testified that PO Flores and LT Bowman gave § 87(2)(b) multiple orders to step out of the vehicle, but he did not comply. He saw § 87(2)(b) holding firmly onto the steering wheel and kicking his legs under the dashboard. LT Bowman grabbed onto § 87(2)(b) arms to pull him out of the vehicle. PO Castellano could not recall if he assisted in removing § 87(2)(b) from the vehicle. Eventually § 87(2)(b) grip on the steering wheel was broken and the officers pulled him out of the vehicle. On his way out of the vehicle, § 87(2)(b) pushed LT Bowman in his chest. PO Castellano used a forcible takedown, a bear-hug, to guide § 87(2)(b) to the ground. While on the ground, § 87(2)(b) was resisting by not placing his arms behind his back, tucking his arms under his body, flailing his arms, and kicking his legs. At one point, § 87(2)(b) was laying on his back and his arms reached up towards PO Castellano's neck and head area. He recalled § 87(2)(b) applying pressure to his neck. PO Castellano said § 87(2)(b) momentarily grabbed his crotch. He admitted that he applied multiple closed-fisted hand strikes to § 87(2)(b) face and upper body because these were the areas that he was closest to. These hands strikes were the minimum amount of force they could use to gain compliance and to stop § 87(2)(b) physical action towards him and the other officers. § 87(2)(b) removed his hands from PO Castellano's neck, after he applied his hand strikes. PO Castellano said a chokehold was never applied to § 87(2)(b) while he was on the ground. More officers arrived and they were able



to turn § 87(2)(b) onto his stomach so he could be handcuffed. § 87(2)(b) was still resisting, by flailing his arms, while he was turned over. § 87(2)(b) was handcuffed and escorted to the police vehicle. PO Castellano was shown BWC footage of the incident and could not recall the exact moment when § 87(2)(b) grabbed his crotch and put his hands around his neck. The video showed § 87(2)(b) hands being held by the officers and PO Castellano was still applying hand strikes to his face. PO Castellano said he continued to punch § 87(2)(b) because he was still resisting. BWC footage was shown of an officer's hand around § 87(2)(b) neck. PO Castellano said he did not apply a chokehold to § 87(2)(b) and he did not know whose hand it was [BR 15].

NYPD Patrol Guide Procedures 221-01 states that a member of service may use force when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In determining whether the use of force reasonable, MOS should consider the nature/severity of the crime/circumstances, whether the subject is actively resisting custody, actions taken by the subject, duration of the action, number of subjects in comparison to number of MOS, size, age and condition of the subject in comparison to the MOS. Further, officers shall not use a chokehold. A chokehold shall include, but is not limited to, any pressure to the throat, carotid artery, or windpipe, which may prevent or hinder breathing, or reduce of intake of air or blood flow. [BR 17].

PO Flores and LT Bowman both testified that § 87(2)(b) was resisting by tucking his arms underneath his chest and was not placing his arms behind his back. § 87(2)(b) also acknowledged lifting his body off of the ground while the officers were trying to handcuff him.

§ 87(2)(g)

PO Castellano explained that § 87(2)(b) reached up towards his neck and applied pressure. § 87(2)(b) also momentarily grabbed his crotch. He admitted that he applied multiple closed-fisted hand strikes to § 87(2)(b) face and upper body because these were the areas that he was closest to. These hands strikes were used to gain compliance and to stop § 87(2)(b) physical action towards him and the other officers. § 87(2)(g) § 87(2)(b) undisputed physical resistance, § 87(2)(g) the use of multiple hand strikes to the face is a significant level of force. BWC shows one of § 87(2)(b) hands going towards PO Castellano's face and neck area but does not clearly show whether he used a chokehold against PO Castellano. § 87(2)(g)

§ 87(2)(b) attributed his restricted breathing to pressure caused by multiple officers being on top of him. However, BWC video shows PO Castellano's hand around § 87(2)(b) neck during the struggle. § 87(2)(g)

In contrast, BWC video shows PO Castellano either falling backwards or otherwise repositions himself away from § 87(2)(b) head after his initial punches. Other officers successfully grab hold of § 87(2)(b) arms and pull them away from his torso. Numerous additional officers had also arrived by this point in the interaction. Nevertheless, PO Castellano then proceeded to utilize additional hand strikes toward § 87(2)(b) face. § 87(2)(g) § 87(2)(b)



§ 87(2)(b) arms were in the control of officers, and the presence of additional officers, his ability to engage in continued active aggression or assault toward officers was diminished. § 87(2)(g)

Further, § 87(2)(b) stated that when he hit the ground, he felt four to five officers on top of him. His breathing was restricted a little, due to the pressure of the officers on his body. § 87(2)(b) testified he was also kicked by officers, which § 87(2)(b) also mentioned. The BWC video and cell phone video shows numerous officers surrounding and moving around § 87(2)(b) during his apprehension. While the video does not clearly show any officer kicking § 87(2)(b) due to the tumult, § 87(2)(g). In addition, the officers interviewed did not testify to kicking § 87(2)(b) and denied taking any action which would have restricted his breathing. § 87(2)(g)

**Allegation (K) Force: Lieutenant Michael Bowman used physical force against § 87(2)(b).**

**Allegation (L) Abuse of Authority: Police Officer Richard Castellano threatened § 87(2)(b) with the use of force.**

**Allegation (M) Force: Police Officer Richard Castellano used physical force against § 87(2)(b).**

As noted above, § 87(2)(b) was unresponsive to contact attempts and a statement could not be obtained from her. In § 87(2)(b) initial online complaint, she reported that officers threw her to the floor and PO Castellano put his foot on the left side of her face while she was being arrested [BR 33].

§ 87(2)(b) testified that he saw § 87(2)(b) being placed in a police vehicle, but he did not see how she came to be in police custody [BR 3].

LT Bowman's BWC footage at 6:20 minutes, shows officers pick up § 87(2)(b) and bring him to the rear of a police vehicle. At 6:48, LT Bowman turns around and encounters § 87(2)(b) yelling, approaching the officers, and apparently recording. LT Bowman places his right hand on § 87(2)(b) chest, pushes her back, and tells her to back up. § 87(2)(b) says that LT Bowman is pushing her, and he says, "Yes I am pushing you, back up." At 6:55, § 87(2)(b) has walked around the officers, approaches the officers from behind, and places her camera near PO Castellano's face and LT Bowman pushes her with his right hand saying, "Back up." She falls to the ground and LT Bowman says, "She goes too." At 7:18, while being handcuffed, PO Castellano (at the top of the frame), reaches his hand down over § 87(2)(b) head, and kneels down, placing his knee close to § 87(2)(b) head. The video is unclear as to whether his knee is on her head or on the sidewalk in front of it [BR 5].

PO Warnken's BWC footage at 7:08 minutes, shows § 87(2)(b) is on the ground and being arrested by officers. PO Castellano approaches § 87(2)(b) pulls out his Taser, points it at her chest, and asks if she is resisting [BR 14].

LT Bowman testified he told § 87(2)(b) to stay back and not get involved in the arrest. His officers were searching § 87(2)(b) at the RMP before they put him in the vehicle to be transported. § 87(2)(b) after being told to stay back multiple times, got behind LT Bowman and approached his officers from the rear, where they could not see her coming. § 87(2)(b)

reached over the officers. LT Bowman was not sure what her intentions were and pushed § 87(2)(b) away from his officers. § 87(2)(b) fell to the ground when LT Bowman pushed her. After she was pushed away, LT Bowman handcuffed her. He asked § 87(2)(b) to place her hands behind her back and she complied. § 87(2)(b) was not resisting while being handcuffed. LT Bowman did not recall any officer stepping on § 87(2)(b) head while she was on the ground. He could not recall any officer pointing a Taser at § 87(2)(b) while she was being handcuffed [BR 16].

PO Castellano testified that he heard a commotion that was happening behind him. He turned around and saw LT Bowman conducting an arrest. He walked over to assist in the arrest of § 87(2)(b) and pulled out his Taser. He pulled out his Taser because § 87(2)(b) was refusing the order to put her hands behind her back multiple times and wanted her to comply. She was being handcuffed and kept raising her upper body. PO Castellano placed his hand on her back to keep § 87(2)(b) down. He did not place his knee on § 87(2)(b) back during the incident. He stated that he placed his hand on § 87(2)(b) back and bent his knee to get lower to the ground. He did not place his knee on her body [BR 15].

NYPD Patrol Guide Procedures 221-01 states that a member of service may use force when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In determining whether the use of force reasonable, MOS should consider the nature/severity of the crime/circumstances, actions taken by the subject, duration of the action, number of subjects in comparison to number of MOS, size, age and condition of the subject in comparison to the MOS [BR 17].

Patrol Guide Procedure 221-08 states that a Conducted Electrical Weapon (CEW) should only be used against persons who are actively resisting, or to prevent individuals from physically injuring themselves or other persons actually present. It is prohibited to use a CEW in situations that do not require the use of physical force. Active resisting includes physically evasive movements to defeat a member of service's attempt at control, including bracing, tensing, pushing, or verbally signally an intention to avoid or prevent being taken into or retained in custody [BR 18].

LT Bowman testified that he told § 87(2)(b) to back up multiple times. He admitted that he was not sure of her intentions when she went behind the officers and pushed § 87(2)(b) away. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

PO Castellano admitted that he did pull out his Taser and pointed it at § 87(2)(b) because she was refusing to put her hands behind her back and wanted her to comply. PO Warnken's BWC footage at 7:08, shows § 87(2)(b) already has her hands behind her back when PO Castellano approaches with his Taser. Lt. Bowman also testified that § 87(2)(b) did not offer any physical resistance. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Further, PO Castellano testified that while § 87(2)(b) was being handcuffed, she kept raising her upper body, which is corroborated by BWC video. PO Castellano placed his hand

on § 87(2)(b) back to keep her down. He did not place his knee on § 87(2)(b) back, or anywhere on her body during the incident. The BWC video shows § 87(2)(b) body being pressed toward the sidewalk, though this occurs simultaneously with PO Castellano's hand touching her back, and his knee lowering toward the floor. Further, the video is unclear as to where his knee touches when it is lowered. § 87(2)(g)

§ 87(2)(b)

§ 87(2)(b)

§ 87(2)(b)

**Allegation (N) Abuse of Authority: Police Officer Jorge Flores threatened to arrest § 87(2)(b)**

**Allegation (O) Discourtesy: Police Officer Jorge Flores spoke discourteously to § 87(2)(b)**

**Allegation (P) Abuse of Authority: Police Officer Jorge Flores seized § 87(2)(b) property.**

As noted above, § 87(2)(b) was unresponsive to contact attempts and a statement could not be obtained from him. These allegations are pled based on observations in BWC video.

As noted in Property Voucher § 87(2)(b) a vehicle was seized under the category "Determine True Owner." [BR 23] § 87(2)(b) arrest report notes that § 87(2)(b) was observed operating a vehicle with a defective headlight and expired Florida license plates. § 87(2)(b) was also found to have a suspended license [BR 35].

PO Flores BWC footage at 8:43 minutes, shows PO Flores tells § 87(2)(b) to give him the keys to the vehicle or he will have to come back with them. § 87(2)(b) says this is his car. PO Flores begins screaming at § 87(2)(b) and says, "Don't break my hand or I swear I'm going to lock your ass up, get out of the car." [BR 4]

PO Flores testified that § 87(2)(b) vehicle had to be taken because he was the operator at the time. He asked for the location of the keys, which was in the possession of the front seat passenger, § 87(2)(b). PO Flores asked § 87(2)(b) for the keys, and he refused to provide them. At one point, § 87(2)(b) pulled the keys away from PO Flores, which caused substantial pain to his right hand. He eventually got the keys from § 87(2)(b). PO Flores was shown BWC footage of the incident. § 87(2)(b) could have been arrested for Obstructing Governmental Administration (OGA) because the vehicle had to come back with them. PO Flores said he did not direct the word "ass," at § 87(2)(b) but meant he was going to arrest him [BR 6].

NYPD Patrol Guide Procedure 200-02 states that officers must value human life, respect the dignity of each individual and render services with courtesy and civility [BR 19].

NYPD Patrol Guide Procedure 218-19 directs an occupied vehicle be taken into custody if the true owner cannot be determined and immediate arrest is not warranted [BR 20].

Penal Law 195.05 states that a person is guilty of obstructing governmental administration when he intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function [BR 21].

In DCT case 2018-18951, the tribunal held that profane remarks made in the context of a violent or stressful encounter do not constitute misconduct [BR 22].

Although PO Flores testified that when he asked § 87(2)(b) for the car keys and he refused to provide them, he could have arrested him for OGA, it was not visible on the BWC footage if § 87(2)(b) physically interfered with PO Flores' ability to get the keys, including pulling away from him and causing pain to PO Flores' hand. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

As detailed in voucher § 87(2)(b) the vehicle was seized until the true owner could be determined. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

### Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party [BR 24].
- This is the first CCRB complaint to which § 87(2)(b) has been a party [BR 25].
- This is the first CCRB complaint to which § 87(2)(b) has been a party [BR 26].
- PO Flores has been a member of service for 10 years and has been a subject in 12 other CCRB complaints and 27 allegations, of which nine were substantiated.:
  - **201608051** involved substantiated allegations of refusal to obtain medical treatment against PO Flores. The Board did not recommend discipline and the NYPD imposed Formalized Training.
  - **201808686** involved substantiated allegations of discourteous word against PO Flores. The Board did not recommend discipline and the NYPD imposed Instruction.
  - **201808753** involved substantiated allegations of discourteous word against PO Flores. The Board did not recommend discipline and the NYPD imposed Instruction.
  - **201901734** involved substantiated allegations of threat of arrest against PO Flores. The Board did not recommend discipline and the NYPD imposed Formalized Training.
  - **201906935** involved substantiated allegations of failure to provide RTKA card and refusal to obtain medical attention against PO Flores. The Board did not recommend discipline and the NYPD imposed Command Discipline A.
  - **202201741** involved substantiated allegations of threat of force (three times) against PO Flores. The Board recommended Command Discipline B and the NYPD did not impose any penalty.
- PO Castellano has been a member of service for eight years and has been a subject in eight other CCRB complaints and 11 allegations, of which two were substantiated.:
  - § 87(2)(g)
  - § 87(2)(g)
  - § 87(2)(g)
- LT Bowman has been a member of service for 17 years and has been a subject in eight other CCRB complaints and 22 allegations, of which four were substantiated.:
  - **202000753** involved substantiated allegations of failure to provide RTKA card against LT Bowman. The Board recommended Command Discipline B and the NYPD did not impose any penalty.
  - § 87(2)(g)
  - § 87(2)(g)



§ 87(2)(g)

**Mediation, Civil, and Criminal Histories**

- This complaint was not suitable for mediation.
- As of March 8, 2023, the New York City Office of the Comptroller has no record of a Notice of Claim being filed by § 87(2)(b) in regard to this incident [BR 27].
- As of March 8, 2023, the New York City Office of the Comptroller has no record of a Notice of Claim being filed by § 87(2)(b) in regard to this incident [BR 28].
- As of September 18, 2023, the New York City Office of the Comptroller has no record of a Notice of Claim being filed by § 87(2)(b) in regard to this incident [BR 29].

§ 87(2)(b) [§ 86(1)(3)&(4)] [§ 87(2)(c)]

**RPBP History**

- This complaint did not contain any allegations of Racial Profiling/Bias-Based Policing.

Squad: 3

Investigator: Moriba Geoffroy      Inv. Moriba Geoffroy      4/2/2024  
Signature      Print Title & Name      Date

Squad Leader: Rolando Vasquez      IM Rolando Vasquez      4/3/2024  
Signature      Print Title & Name      Date